

REMARKS

This Amendment is submitted in response to the June 20, 2005 Office Action issued in connection with the above-captioned patent application. By this Amendment, only claim 1 has been amended to correct a grammatical error as shown. The pending claims are claims 1-5, 7-23 and 26-43, of which claims 1, 22 and 40 are independent.

In the Office Action, the Examiner has rejected all pending claims as allegedly rendered obvious under 35 U.S.C. 103(a) from the combination of a previously-cited article referred to in the Office Action as "Reinhard", in combination with newly-cited U.S. Patent No. 6,757,897 (Shi). It is respectfully requested that the Examiner review and reconsider this rejection in view of the following remarks.

As stated on page 3 of the Office Action, "Reinhard does not teach said configuration file specifies periodic checking for a thread starvation condition". Applicant had previously mentioned in the April 6, 2005 Amendment that although page 716 of Reinhard does state "in the future, JAS will be able to detect many more performance and reliability problems such as a processor or machine crash ... thread starvation, and deadlock", there is no teaching in Reinhard as to how or when this detection should take place. Recognizing this deficiency, the Examiner relies on Shi which allegedly "teaches scheduling a task to prevent task or process starvation conditions to run often". See page 3 of Office Action. The Examiner relies on column 16, lines 67 through column 17, line 5 of Shi for this teaching and further states that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the "scheduling of the task to prevent starvation conditions" of Shi with the configuration file of Reinhard. Applicant disagrees.

A review of the Shi patent shows that it is primarily concerned with preventing a "task starvation" condition by allowing a first task to share processor time with other tasks. As stated in

column 4, lines 13-19, in response "to receiving the yield signal, the method includes the operations of temporarily disabling performance of the first task and performing at least one second task for a second time period, such that the first task yields performance time to one or more second tasks after the first time period, irrespective of a performance time slice provided to the first task". The sections of Shi relied upon by the Examiner, namely, column 16, lines 67 through column 17, line 5 simply recites that the invention "can be used to **prevent** task or process starvation conditions". See also the Abstract which states "a balanced system that can greatly **avoid** task starvation". (emphasis added) In other words, the Shi patent is directed to a method for scheduling tasks such that a thread starvation or task starvation condition is unlikely to occur.

Shi is directed to a method for attempting to avoid a thread starvation condition by using a task scheduling algorithm. There is no teaching in Shi of searching a configuration file which "specifies periodic checking for a thread starvation condition", as is recited in the subject independent claims. In other words, and in accordance with the independent claims, a thread starvation condition must exist in order for it to be detected whereas, in contrast, Shi is directed to attempting to avoid the existence of a thread starvation condition in the first place. As a result, the combination of Shi with Reinhard would not render the subject claims obvious. Moreover, because Shi is directed to a method for avoiding the occurrence of a thread starvation condition, the Shi patent teaches away from the subject invention. Accordingly, it is believed that the claims are not rendered obvious and are, therefore, patentable over the references relied upon by the Examiner.

Turning now to non-substantive matters, on page 2 of the Office Action the Examiner advises that an IDS which was referred to in the April 6, 1005 Amendment as being submitted "concurrently herewith" was never received. Upon review of the file, applicant has noticed that the IDS was, in fact, not filed with the prior Amendment. Applicant regrets this oversight and has

submitted herewith an IDS which includes copies of the articles cited thereon. Please note that a copy of article (d) referred to on page 11 of the April 6, 2005 Amendment, titled "An Overview of Checkpointing in Uniprocessor and Distributed Systems, Focusing on Implementation and Performance" could not be located. Instead, applicant has cited an article by the same authors, Beedubail and Pooch, titled "An Architecture for Object Replication in Distributed Systems". It is believed that the aforementioned article (d) is based on the cited article.

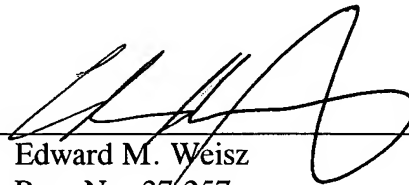
In view of the foregoing, it is believed that all claims are now in condition for immediate allowance.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By



Edward M. Weisz

Reg. No. 37,257

551 Fifth Avenue, Suite 1210

New York, New York 10176

(212) 687-2770

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